

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

CONTINENTAL CASUALTY COMPANY
and TRANSPORTATION INSURANCE COMPANY,

Plaintiffs,

v.

ORDER

Civil File No. 03-5446 (MJD/JSM)

ADVANCE TERRAZZO & TILE
COMPANY, INC., JAMES M.
FANJOY, and NANCY L. FANJOY,

Defendants.

Robert Edward Salmon and Sarah E. Greenberg, Meagher & Geer, PLLP, Counsel
for Plaintiffs.

Michael J. Rothman, Winthrop & Weinstine, Counsel for Defendant Advance
Terrazzo & Tile Company, Inc.

John S. Raboin, Raboin Law Firm, Ltd., Counsel for Defendants James M. Fanjoy
and Nancy L. Fanjoy.

This matter is before the Court on Plaintiffs' Motion for Partial Voluntary
Dismissal with Prejudice. [Docket No. 70] No oral argument has been requested
on this motion and Defendants have no objections to the motion.

After investigation, Plaintiffs now believe that Exclusion J of Coverage D of

the Transportation Policy does not apply to the underlying claims in this action.

Based on this conclusion, Plaintiffs request that the Court dismiss Paragraph 43 of their Complaint with prejudice, eliminating Count III of their Complaint.

Under Federal Rule of Civil Procedure 41(a), because Defendants have answered the Complaint, Plaintiffs cannot dismiss this count unless Defendants stipulate to dismissal or the Court grants this motion to dismiss. Defendants have declined to execute Plaintiffs' stipulated dismissal; however, they have filed no objection or response to Plaintiffs' current motion.

Based on Plaintiffs' memorandum of law and accompanying affidavit and on the fact that Defendants do not object to Plaintiffs' motion, the Court will grant Plaintiffs' Motion for Partial Voluntary Dismissal with Prejudice.

IT IS HEREBY ORDERED that

Plaintiffs' Motion for Partial Voluntary Dismissal with Prejudice
[Docket No. 70] is **GRANTED**.

Dated: May 12, 2005

s/ Michael J. Davis
Judge Michael J. Davis
United States District Court